

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROSA M. ZARATE,

Plaintiff,

Case No. 10-10020

v.

HONORABLE DENISE PAGE HOOD

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

/

ORDER ACCEPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge Mona K. Majzoub's Report and Recommendation [Docket No. 11, filed on January 13, 2011]. Plaintiff Rosa Zarate filed a Motion for Summary Judgment on June 1, 2010 [Docket No. 8]. Defendant Commissioner of Social Security filed a Motion for Summary Judgment on August 2, 2010 [Docket No. 10]. The Magistrate Judge recommends that Plaintiff's Motion for Summary Judgment be denied, Defendant's Motion for Summary Judgment be granted, and the action dismissed. Neither party has filed objections to the Magistrate Judge's Report and Recommendation, and the time to do so has expired.

The standard of review to be employed by the Court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). To preserve the right to appeal the Magistrate Judge's recommendation, Plaintiff was obligated to file objections to the Report and Recommendation within ten days of service of copy, as provided in U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2).

Failure to file specific objections constitutes a waiver of any further right to an appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). In this case, no objections have been made.

This Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” Id.

Judicial review of the Commissioner’s decision is limited in scope to determining whether the findings of fact made by the Commissioner are supported by substantial evidence, and deciding whether the Commissioner employed the proper legal criteria in reaching his or her conclusion. *Garner v. Heckler*, 745 F. 2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge (“ALJ”) must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F. 2d 922, 928 (6th Cir. 1987). A district court’s review of an ALJ’s decision is not *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F. 2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision. *Smith v. Secretary of HHS*, 893 F. 2d 106, 108 (6th Cir. 1989). An administrative decision must be affirmed if supported by substantial evidence, even if the Court might arrive at a different conclusion. *Mullen v. Bowen*, 800 F. 2d 535, 545 (6th Cir. 1986) (quoting *Baker v. Heckler*, 730 F. 2d 1147, 1150 (8th Cir. 1984)).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that the ALJ’s findings are supported by substantial evidence.

Accordingly,

IT IS ORDERED that Magistrate Judge Mona K. Majzoub's Report and Recommendation [**Docket No. 11, filed on January 13, 2011**] is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [**Docket No. 8, filed on June 1, 2010**] is DENIED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment [**Docket No. 10, filed on August 2, 2010**] is GRANTED.

IT IS FURTHER ORDERED that this cause of action is DISMISSED.

s/Denise Page Hood
Denise Page Hood
UNITED STATES DISTRICT JUDGE

Dated: February 28, 2011

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 28, 2011, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Relief Case Manager, (313) 234-5165